

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

UNITED STATES OF AMERICA,	:	NO. 1:13-CV-00695
	:	
Plaintiff,	:	
	:	ORDER
v.	:	
	:	
JACK D. DAVIS, individually	:	
and d/b/a DW FUNERAL HOME,	:	
SCIOTO COUNTY TREASURER,	:	
STATE OF OHIO, WILLIAM ZERICK,	:	
CAROLYN S. COLEMAN, and	:	
NATIONWIDE INSURANCE.	:	
	:	
Defendants.	:	

This matter is before the Court on the Magistrate Judge's October 15, 2014 Report and Recommendation (doc. 25). No Objection has been filed.

Proper notice was provided to the Parties under Title 28 U.S.C. § 636(b)(1)(C), including the notice that they would waive further appeal if they failed to file an objection to the Magistrate Judge's Report and Recommendation in a timely manner. See United States v. Walters, 638 F.2d 947, 949-50 (6th Cir. 1981).

Having reviewed this matter de novo, pursuant to Title 28 U.S.C. § 636, the Court concludes the Magistrate Judge's Report and Recommendation is correct that the government's request for default judgment comports with Fed. R. Civ. P. 55(b)(1) and (b)(2) such that the government's motion should be granted and a judgment should be entered against Defendants. Accordingly, the Court

ADOPTS and AFFIRMS the Report and Recommendation in all respects (doc. 25), GRANTS the government's motion for default judgment (doc. 24), and ENTERS JUDGMENT as follows:

(1) pursuant to 26 U.S.C. §§ 6321, 6322, and 6323, the United States has valid, subsisting, and enforceable tax liens (as set forth in paragraphs 9 and 11 of the Complaint) upon all property and rights to property belonging to Defendant Jack D. Davis;

(2) the United States is entitled to judgment against Defendant Jack D. Davis in the total sum of \$188,879.60 (as of September 23, 2013, plus statutory additions, including interest, to accrue thereafter pursuant to 26 U.S.C. §§ 6601, 6621, and 6622) for unpaid trust fund recovery penalties (26 U.S.C. § 6672), annual Form 940, quarterly Form 941, and a penalty imposed under 26 U.S.C. § 6721, for various tax periods from 1997 to 2005;

(3) the federal tax liens in favor of the United States have attached to the real property located at (1) 65 Jackson Street, South Webster, OH (Parcel ID 021617000) and legally described in paragraph 14 of the Complaint, and (2) 17 McDonald Street, South Webster, OH (Parcel ID 021616001) and legally described in paragraph 16 of the Complaint (the "Properties");

(4) Defendants Jack D. Davis, William Zerick, and Nationwide Insurance have no right, title, claim, lien, or interest in the Properties;

(5) that the federal tax liens in favor of the United States

upon the Properties are hereby enforced, and that the Properties shall be judicially sold pursuant to 26 U.S.C. § 7403 to enforce such liens, free and clear of all rights, titles, claims, and interests of the parties to this action, with the proceeds distributed as follows:

(A) First, to pay for the costs and expenses of sale, including local real estate taxes (to include any outstanding debt owed to Defendant Scioto County Treasurer), and compensation and expenses of a Receiver, if one is appointed;

(B) Second, to Plaintiff United States, Defendant State of Ohio, and Defendant Carolyn S. Coleman in accordance with their respective interests to be determined by a proposed order of public sale that will be submitted to the Court at a later date; and

(C) Third any remainder from the sale of the Properties to Defendant Jack D. Davis.

(6) a separate order of sale shall be submitted by the United States and an appropriate order of sale shall be signed and entered.

SO ORDERED.

Dated: December 18, 2014

s/S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge